

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MARCELLOUS L. WALKER,

Plaintiff,

v.

Case No. 18-C-612

SANDY MCARDLE, et al.,

Defendants.

ORDER

On July 24, 2018, the Court allowed the plaintiff to proceed on constitutional claims against various defendants, including the Injured Patients and Families Compensation Fund. About a month later, the Fund filed a motion to dismiss, arguing that the plaintiff failed to state a claim against it because the “plaintiff has alleged specific amounts of damage that even if he were able to obtain, would not create liability on the Fund.” ECF No. 31 at 5. The Fund further explained that, “even if plaintiff were somehow able to prevail on his medical negligence claim [and] be awarded the maximum amount of noneconomic damages and whatever *de minimis* economic damages he could identify, the total judgment in his favor would not exceed the \$1,000,000.00 threshold necessary to invoke Fund liability.” *Id.* at 6. Accordingly, the Fund asked the Court to dismiss it from this case with prejudice.

Based on the plaintiff’s failure to respond to the Fund’s motion, the Court infers that the plaintiff does not oppose the motion. The Court will grant the motion.

IT IS THEREFORE ORDERED that defendant Injured Patients and Family Compensation Fund's motion to dismiss for failure to state a claim (ECF No. 30) is **GRANTED**. The Injured Patients and Family Compensation Fund is **DISMISSED** as a defendant.

Signed in Green Bay, Wisconsin, this 26th day of September, 2018.

s/ William C. Griesbach

William C. Griesbach, Chief Judge
United States District Court